

David Karl Gross, ABA #9611065  
Birch Horton Bittner & Cherot  
510 L Street, Suite 700  
Anchorage Alaska 99501  
Telephone: 907.276.1550  
[dgross@bhb.com](mailto:dgross@bhb.com)

Edward E. McNally, ABA #9203003  
Marc E. Kasowitz (*Admitted Pro Hac Vice*)  
Hector Torres (*Admitted Pro Hac Vice*)  
Kasowitz Benson Torres LLP  
1633 Broadway  
New York, New York 10019  
Telephone: 212.506.1700  
[emcnally@kasowitz.com](mailto:emcnally@kasowitz.com)  
[mkasowitz@kasowitz.com](mailto:mkasowitz@kasowitz.com)  
[htorres@kasowitz.com](mailto:htorres@kasowitz.com)

*Attorneys for Plaintiffs*

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

KLOOSTERBOER INTERNATIONAL )  
FORWARDING LLC and ALASKA )  
REEFER MANAGEMENT LLC )

Plaintiffs, )

vs. )

Case No.: 3:21-cv-00198-SLG

UNITED STATES OF AMERICA, )  
U.S. DEPARTMENT OF HOMELAND )  
SECURITY, U.S. CUSTOMS AND )  
BORDER PROTECTION, and TROY A. )  
MILLER, U.S. Customs and Border )  
Protection Acting Commissioner, in his )  
official capacity )

Defendants. )

## **DECLARATION OF JOHN B. TOTARO, JR.**

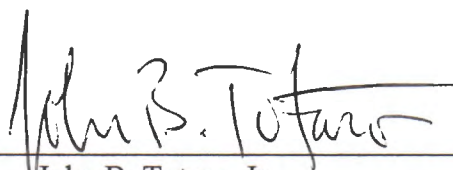
Pursuant to 28 U.S.C. § 1746, I, John B. Totaro, Jr., declare as follows:

1. I am an attorney licensed to practice law in the District of Columbia since 2000.
2. I am an attorney with the law firm Neville Peterson LLP and practice in its Washington, DC office.
3. I have personal knowledge of the facts set forth in this declaration.
4. On September 30, 2021, on behalf of Kloosterboer International Forwarding LLC, and in accordance with 49 U.S.C. § 13702 and 49 C.F.R. Part 1312, I filed a rate tariff issued by Kloosterboer International Forwarding LLC with the Surface Transportation Board in Washington.
5. On September 29, 2021, I contacted Michael H. Higgins, Deputy Director of the Surface Transportation Board's Office of Public Assistance, Governmental Affairs and Compliance Rail Customer and Public Assistance Program, by telephone, and asked him to confirm the appropriate method of filing the rate tariff in light of the agency's COVID pandemic procedures. On September 30, 2021, I received an email from Mr. Higgins, in which he explained that I should file a portable document format of this tariff by transmitting it by email to [tariffs@stb.gov](mailto:tariffs@stb.gov), and that this email address would generate an automatic confirmation of receipt. Mr. Higgins stated in his email that I should follow this procedure because, "{a}t present, in the maximum telework scenario due to Covid-19, there is not a process to receive a hard-copy (paper) tariff at our office and to provide a stamp-and-return acknowledgment, as contemplated by 49 CFR 1312.4(a)."
6. On September 30, 2021, I submitted the filing fee of \$30 required for this rate tariff to the Surface Transportation Board using the Pay.gov online service. I then filed a portable

document format of this tariff, including proof of payment of the filing fee, by transmitting it as an attachment to an email to [tariffs@stb.gov](mailto:tariffs@stb.gov). After sending this email, I received an automated response from the [tariffs@stb.gov](mailto:tariffs@stb.gov) email address acknowledging receipt of my email.

7. I sent a paper courtesy copy of the rate tariff by Federal Express to the Surface Transportation Board's Office of Public Assistance, Governmental Affairs and Compliance. In addition, I emailed a courtesy copy of the portable document format of this tariff to Mr. Higgins at [Michael.Higgins@stb.gov](mailto:Michael.Higgins@stb.gov).
8. Attached is a true and accurate copy of the rate tariff filed with the Surface Transportation Board, including the cover letter, attachments, and Pay.gov receipt email that were included in the portable document format of the rate tariff.
9. Attached is a true and accurate copy of the email which I sent to [tariffs@stb.gov](mailto:tariffs@stb.gov) with the rate tariff as an attachment.
10. Attached is a true and accurate copy of the email acknowledgement of receipt of the rate tariff that I received by email from [tariffs@stb.gov](mailto:tariffs@stb.gov).
11. Attached is a true and accurate copy of the Federal Express delivery label for the paper courtesy copy of the rate tariff that I sent to the Surface Transportation Board's Office of Public Assistance, Governmental Affairs and Compliance.
12. Attached is a true and accurate copy of the email that I sent to Michael Higgins of the Surface Transportation Board's Office of Public Assistance, Governmental Affairs and Compliance to provide a courtesy copy of the rate tariff.

I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

  
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John B. Totaro, Jr.

Dated: October 1, 2021